

- 5                   E.     The center fruit in the photograph shows the “distal” end. Punctuation and grammatical changes have been made to the description of the drawing.
- F.     A period has been inserted at the end of the detailed description.
- G.     The words United States have been added for clarification.
- H.     The examiner has requested additional quantitative information relative to characteristic and observed height and spread for the observed plant at a specified age and location of culture, and/or amount of growth over a specified period of time. The original specification already provides
- 10                   considerable quantitative information for the tree in its fourth year of growth; however, observed height and spread (presumed to mean diameter at drip line) are widely variable depending upon such factors as pruning practices, fertilization, watering, temperature, girdling, and other cultural practices. Accordingly, no additional information regarding
- height and spread has been provided.
- 15                   I.     The tree is was in its fourth year of growth at the time of the application; the designation “four year old tree” has been changed to refer to the fourth year of growth.
- J.     “Regular” has been clarified to refer to the tree as bearing every year, not
- 20                   in alternate years.
- K.     The examiner has requested productivity in pounds per bushels per acre and storability of the fruit. In response, the applicant points out that

- bushels per acre are not used in California commercial production on fruit orchards, and that the number of trees per acre can vary for peaches from as few as 90 to 108 per acre up to 200 per acre (with dwarf trees) depending on plant spacing which is related to pruning, fertilization, and other cultural practices. In addition, peach trees do not reach full production capability until they are at least four or five years old. Accordingly, no productivity information has been provided. The peach fruit stores well. This can be included in the specification if desired.
- 5
- L. The spelling of "Lenticels" has been corrected.
- 10
- M. The color of the lenticels is light brown, plate 7A10. With respect to the number of lenticels, this can vary widely depending upon fertilization and irrigation. The term "many" used by the applicant is distinguished as identifying a greater number of lenticels than other possible descriptions such as "moderate" or "small."
- 15
- N. The decimal point has been inserted before the numeral 28.
- O. Color references have been made consistent to refer to the color description followed by the numerical identification of the plate (e.g. "Chestnut Brownstone (7-E-10)").
- 20
- P. The diameter of the branches was provided in the specification (5 to 6 inches in circumference). The length will vary greatly, depend upon pruning practices.

- Q. "Sl." is an abbreviation for "slight." The abbreviation has been replaced with the full word throughout the specification.
- R. The leaf is described as "lanceolate" which includes the base shape. "Smooth" texture has been added.
- 5 S. Upwardly disposed surface refers to the top in the upper side of the leaf; the downwardly disposed surface refers to the bottom or underside of the leaf. "Upper side" and "underside" have been added to specification.
- T. Mr. Vernon Green is J8. Correction has been made.
- 10 \* U. The venation pattern is typical of prunus and the same for all peaches; it is not a characteristic that distinguishes.
- V. As indicated in "O" above, all color references have been changed for consistency.
- W. The number of glands (2), size of glands (2mm) and color of glands (chrysolite green 19-K-3) has been included.
- 15 X. The petiole "thickness" has been changed to "diameter."
- Y. The full color description for piquant green is 20-K-6.
- \* Z. Measurements of buds would not provide distinguishing characteristics for peach trees as they might with flowers.
- AA. 6-C-9 is Rosetone, and has been corrected.
- 20 BB. Spacing has been corrected.
- CC. The decimal point before numeral 32 has been removed.
- DD. The flower has no fragrance.

- \* EE. The term “broadly ovate” used by applicant is descriptive, meaning little or no apex. All peaches have five petals, so this is not a distinguishing characteristic.
- FF. All peaches have five sepals, so this is not a distinguishing characteristic.
- 5 GG. The flower has eighteen to twenty-four stamens, and one pistil. This has been included in the specification.
- HH. The parentheticals have been corrected.
- II. The diameter of the pedicel is 1-2 mm. This has been included in the specification.
- 10 JJ. The spelling of “glabrous” has been corrected.
- KK. All peaches have five sepals, so this is not a distinguishing characteristic. The number (5) has been included in the specification.
- LL. Anthers are small for all peaches, so this is not a distinguishing characteristic.
- 15 MM. Plate 19-D-2 is “reed” green, and has been corrected.
- NN. The color is pinard yellow, 9-J-2, and has been clarified.
- OO. The stem “caliper” has been changed to “diameter” and several colors are listed.
- PP. “Sl.” is an abbreviation for “slight.” The abbreviation has been replaced
- 20 with the full word throughout the specification.

- QQ. The fruit weight may vary widely depending upon such factors as pruning practices, fertilization, watering, temperature, girdling, and other cultural practices. Accordingly, no additional information regarding fruit weight has been provided.
- 5 RR. The stone "thickness" has been changed to "diameter."
- SS. The color code provide is when the stone is dry (not wet).
- TT. The texture of the stone (ridged) is set forth, and the ridges are described. However, the applicant has added "Texture – pitted" for completeness.
- UU. The term "et al" has been corrected.
- 10 VV. Peaches are not stored like pears or apples. Shipping and quality is very good, and has been included in the specification.
- WW. Since the peach flower has stamens and a pistil, no pollinizer is required.
- XX. There is no visible evidence of resistance or susceptibility of the invention that differs from the parent plant. This has been included in the
- 15 specification.
- YY. The invention has winter hardiness, and is not susceptible to damage during the dormant season. Since the invention is normally irrigated during the growing season, drought is not a factor. There does not appear to be any evidence of heat susceptibility for the fruit as well as the foliage.
- 20 This has been included in the specification.

In view of the above, it is submitted that the claim is in condition for allowance.

Reconsideration of the rejection is requested. Allowance of claim 1 at an early date is solicited.

Dated: April 25, 2001.

RECEIVED

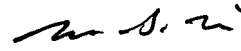
Respectfully Submitted,

MAY 01 2001

TECH CENTER 1600/2900

5

By



MARK D. MILLER

No. 32,277

Kimble, MacMichael & Upton

5260 N. Palm Ave., Ste. 221

Fresno, California 93704

(559) 435-5500

10

15

919701.amend.3